

DEPARTMENT OF VETERANS AFFAIRS WHISTLEBLOWING

INTRODUCTION

The Department of Veterans Affairs (VA) is one of the largest executive branch agencies in terms of quantity of employees and geographic scope. The agency has [three primary mandates](#): the administration of veteran benefits; veteran burial and cemeteries; and veteran healthcare. The VA is the U.S.'s largest integrated health care network, serving over nine million veterans each year. Further, there is also a [network of state and local VA offices](#). Given its scale, there are multiple avenues for VA whistleblowing.

This resource focuses on laws and offices relevant for VA employee, contractor, and grantee whistleblower disclosures and retaliation. VA patients, veteran beneficiaries, and other non-employee whistleblowers may consider reporting concerns to relevant VA offices such as the [VA Office of Inspector General](#), or externally to Congress or veterans service organizations, for instance.

RELEVANT LAWS: VA EMPLOYEE, CONTRACTOR, AND GRANTEE WHISTLEBLOWING

VA's broad mandate means that the scope of potential whistleblower disclosures from VA employees, contractors, and grantees, is vast. Statutes also require the VA to adhere to whistleblowing-relevant mandates such as disciplinary action for retaliators.

Whistleblower Protection Act (WPA)

The WPA, as amended, is the primary whistleblower law covering most executive branch employees – including most VA medical and non-medical professionals. The WPA prohibits retaliation against applicants and employees who blow the whistle on misconduct such as a violation of law, rule, or regulation; a gross waste of funds; or a substantial and specific threat to public health and safety. Congress is a protected audience for WPA disclosures, and the law provides for independent investigation and enforcement through the Office of Special Counsel and Merit Systems Protection Board. See also the Office's [Whistleblower Protection Act Fact Sheet](#).

Federal Contractor and Grantee Protections

VA contractors, subcontractors, grantees, subgrantees, and personal services contractors also have whistleblower protections (41 U.S.C. § 4712). The law prohibits retaliation against covered employees who make a protected disclosure related to the contract or grant. For example, if the VA hypothetically contracted with a medical device provider, the law would prohibit that provider from retaliating against its own employees. Congress is a protected audience for whistleblower disclosures, and rights are administered through the VA's Office of Inspector General. See also the Office's [Federal Contractor and Grantee Whistleblowing Fact Sheet](#).

VA Patient Protection Act of 2016

The VA Patient Protection Act permits the VA secretary to take certain disciplinary actions against VA employees, including those found to have engaged in misconduct and whistleblower retaliation (38 U.S.C. § 714). The law empowers the VA secretary to remove, suspend, or demote employees accordingly, while still extending the right for employees to challenge or appeal the removal where appropriate. Notably, medical professionals are excluded from this law's provisions (38 U.S.C. § 714(h)(1)(B)).

VA Accountability and Whistleblower Protection Act Of 2017

This law codified the VA's Office of Accountability and Whistleblower Protection (OAWP), originally created by presidential order (38 U.S.C. § 323). It dictates unique procedures for investigating and carrying out disciplinary action against supervisory agency employees found to have engaged in whistleblower retaliation or other misconduct. (38 U.S.C. § 731).

OTHER LAWS

Other laws also prohibit reprisal against an employee's assertion of their rights. For example, [equal employment opportunity laws](#).

KEY OFFICES FOR VA WHISTLEBLOWING

There may be several entities involved in investigating or enforcing VA-relevant whistleblowing disclosures or retaliation complaints.

Office of Special Counsel (OSC) and Merit Systems Protection Board (MSPB)

OSC is the independent executive branch agency responsible for enforcement of the WPA. The MSPB is the administrative court that hears certain whistleblower retaliation claims under the WPA. See the [Whistleblower Protection Act Fact Sheet](#) for more background. Notably, OSC also [plays a central role](#) in enforcing certain claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA), which is relevant for service member and veteran anti-discrimination rights.

VA Office of Inspector General (OIG)

The VA OIG is charged with overseeing the VA through audits, inspections, and investigations of agency programs and operations. Whistleblowers are critical partners in an OIG's oversight work, and it may investigate VA-relevant disclosures from any source.

While the OIG [states](#) that it generally does not investigate whistleblower retaliation complaints from VA employees, it may refer employees to an investigatory office such as OSC or the OAWP as appropriate. By law, the OIG is the primary investigator of [whistleblower retaliation complaints](#) filed by VA contractors and grantees.

The VA OIG is required by law to designate a [Whistleblower Protection Coordinator \(WPC\)](#). This person is charged with, among other roles, ensuring that agency employees are educated on their whistleblower rights, and facilitating communications between the inspector general and outside entities such as congressional offices. While the WPC cannot provide legal advice to whistleblowers, they are available to support whistleblowers in navigating the various VA channels for whistleblowing or retaliation complaints and may also be a helpful point of contact for congressional offices seeking to better understand whistleblowing-related OIG processes.

Office of Accountability and Whistleblower Protection (OAWP)

Created by presidential order and later codified into law with bipartisan congressional support, [OAWP](#) is charged with “promoting and improving accountability within the [VA].” In addition to other roles, OAWP receives and investigates whistleblower disclosures involving senior VA leaders. OAWP also receives and investigates whistleblower retaliation complaints made against VA supervisors. When OAWP receives allegations that are not within its jurisdiction to investigate, OAWP refers the allegation to the appropriate entity—for example, the VA Office of Inspector General or the VA Office of the Medical Inspector.

Other VA Offices Relevant for Whistleblowing

- [Office of the Medical Inspector \(OMI\)](#): Receives and investigates disclosures related to healthcare services under the VA Health Administration.
- [Patient Advocacy Program](#): A resource for all veterans and their families who receive care at VHA facilities and clinics. Patient advocates are available to assist with specific questions, concerns, or disagreements about medical treatment.
- [VA Office of Resolution Management, Diversity & Inclusion \(ORMDI\)](#). Administers complaints from VA employees who are challenging retaliation for participating in the Equal Employment Opportunity program.

Non-Federal Entities

- [State and local VA offices](#) – Counsel and assist veterans with accessing their rights and benefits under state and federal laws.
- Veterans Service Organizations – A broad term for organizations that aid and serve veterans and service members, ranging from federally-recognized service organizations to local nonprofits.

ADDITIONAL RESOURCES

- [Veteran's Crisis Line](#): (OR dial 988 and press 1)
- [VA OAWP: Breakdown of key differences between VA investigative entities](#)
- [VA OIG: Whistleblower Protection Program Overview](#)
- [2022 CRS Report: Veterans Service Organizations](#)